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IN THE SUPREME COURT

STATE OF ARIZONA

Sua Sponte Petition to Adopt New)	
Rule 32.10, Arizona Rules of)	Arizona Supreme Court
Criminal Procedure, and Renumber)	No. _____
Present Rule)	
_____)	

Pursuant to Rule 28(B) of the Rules of the Supreme Court, this petition is to adopt a new Rule 32.10, Arizona Rules of Criminal Procedure, and renumber the existing rule as Rule 32.11. In conformity with A.R.S. § 13-753(I), this proposed new rule directs the parties to seek review initially in the court of appeals by filing a special action petition when the trial court makes a determination of the defendant's mental retardation status in capital post-conviction relief proceedings. Public comment on this petition is encouraged.

Text of Proposed New Rule

Rule 32.10. Review of mental retardation determination

In any capital case, a party seeking review of the trial court's determination of the defendant's mental retardation status shall file a petition for special action in the court of appeals within ten days after the trial court's decision. The filing of the petition for special action is governed by the rules of procedure for special actions, except that the court of appeals shall exercise jurisdiction and decide the issue raised.

Comment

When the trial court makes a determination of the defendant's

mental retardation status in capital post-conviction relief proceedings, this rule directs the parties to seek review initially in the court of appeals by filing a special action petition, in conformity with A.R.S. § 13-753(I).

Rule ~~32.10.~~ 32.11. Extensions of time; notification of victims

[unchanged]

DATED this _____ day of January, 2010.

By:

Donna Hallam, Staff Attorney
Arizona Supreme Court